

08 CV 6329

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MADISON REALTY CAPITAL, L.P.,

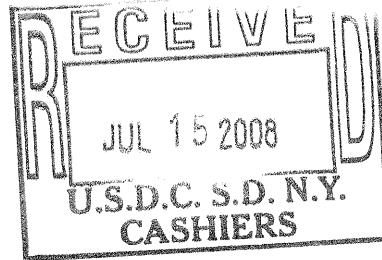
Plaintiff,

v.

SE MARINA WAY PARTNERSHIP, L.P.,
PIRATE'S LAKE LTD., 7500 BELLAIRE
MALL, L.P., 6425 GESS LTD.,
WILDFLOWER TDS, L.P., SHALAMAR
SAN MARCOS PROPERTIES, LTD.,
WINDSOR TDS, L.P., 9632 PARTNERS,
LTD., AND TRACY SUTTLES,

Defendant.

***NOTICE OF REMOVAL
OF ACTION UNDER
28 U.S.C. §1441 (DIVERSITY)***



TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that defendants SE Marina Way Partnership, L.P., Pirate's Lake Ltd., 7500 Bellaire Mall, L.P., 6425 Gess Ltd., Wildflower TDS, L.P., Shalamar San Marcos Properties, Ltd., Windsor TDS, L.P., 9632 Partners, LTD., and Tracy Suttles (the "Defendants") hereby remove to the United States District Court for the Southern District of New York the state court action described below.

1. On April 30, 2008, an action was commenced in the Supreme Court of the City of New York in the County of New York entitled Madison Realty Capital, L.P., *plaintiff* vs. SE Marina Way Partnership, L.P., Pirate's Lake Ltd., 7500 Bellaire Mall, L.P., 6425 Gess Ltd., Wildflower TDS, L.P., Shalamar San Marcos Properties, Ltd., Windsor TDS,

L.P., 9632 Partners, LTD., and Tracy Suttles, *defendant*, as Index Number 601305/2008. A copies of the Summons With Notice of Motion For Summary Judgment in Lieu of Complaint and the Amended Notice of Motion for Summary Judgment in Lieu of Complaint (collectively the "Summons and Motion for Summary Judgment") are attached hereto as **Exhibit "A"**.

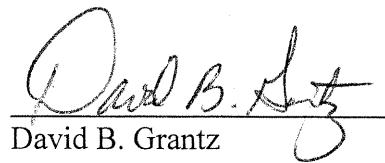
2. Defendants first received a copy of the Summons and Motion for Summary Judgment on June 16, 2008, when Defendants counsel executed an Acknowledgement of Service by Mail from said state court. A copy of the Acknowledgment of Service by Mail is attached hereto as **Exhibit "B"**.

3. This is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs. This Court, therefore, has original jurisdiction over this action under 28 U.S.C. § 1332, and the action is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. §1441.

4. Plaintiff Madison Realty Capital, L.P. is a limited partnership organized under and by virtue of the laws of the State of Delaware, having an office at 825 Third Avenue, 37th Floor, New York, NY 10022

5. Defendants SE Marina Way Partnership, L.P., Pirate's Lake Ltd., 7500 Bellaire Mall, L.P., 6425 Gess Ltd., Wildflower TDS, L.P., Shalamar San Marcos Properties, Ltd., Windsor TDS, L.P., 9632 Partners, LTD. are corporate entities incorporated in the State of Texas with business addresses in the State of Texas and Tracy Suttles is an individual Texas resident with an address at 3 Willowick Circle, Houston, Texas 77024-7524.

Dated: July 15, 2008



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